

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

**United States of America,**

**Crim. No. 19-209(2) (SRN/DTS)**

**Plaintiff,**

**v.**

**ORDER**

**Luis Carlos Favela,**

**Defendant**

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Bradley Endicott, Andrew Winter, and Craig Baune, Office of the United States Attorney, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for Plaintiff United States of America

Luis Carlos Favela, Reg. No. 22105-041, USP-Lompoc, Satellite Camp, 3705 West Farm Road, Lompoc, CA 93436, Pro Se Defendant

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SUSAN RICHARD NELSON, United States Magistrate Judge

Before the Court is Defendant Luis Carlos Favela's Pro Se Motion Requesting Copies of Transcripts [Doc. No. 161] and his Pro Se Motion for an Extension of Time to File a Reply [Doc. No. 162].

In September 2021, Defendant filed his Pro Se Motion to Vacate Under 28 U.S.C. § 2255 [Doc. No. 156], which is pending before the Court. Among his grounds for relief, he argues that his counsel was ineffective for allegedly failing to file a notice of appeal after being asked to do so. (Def.'s § 2255 Mot., Ground 3.) In the Government's Response in Opposition [Doc. No. 160] to Defendant's § 2255 Motion, it notes that as to this ground for relief, when a petitioner and his counsel have made contrary statements about whether

a petitioner requested the filing of a notice of appeal, the district court must hold an evidentiary hearing to determine whether the defendant's allegation is true. (Gov't's Opp'n at 14) (citations omitted). The Government also notes that the petitioner bears the burden of demonstrating that he instructed his attorney to appeal, but the attorney failed to do so. (*Id.*)

Related to the § 2255 Motion, Defendant requests a copy of the Government's Response in Opposition to his § 2255 Motion, and copies of the transcripts from the hearings on his change of plea and sentencing, and he requests a 60-day extension of time in which to file a reply.

Based upon the foregoing, and all the files, record, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Government shall file a supporting declaration or affidavit from Defendant's former counsel related to Ground 3 of Defendant's § 2255 Motion (alleged failure to file a notice of appeal when instructed) no later than **February 28, 2022**.
2. Defendant's Pro Se Motion Requesting Copies of Transcripts [Doc. No. 161] is **GRANTED**. The Court directs the Clerk of Court to provide the following three documents to Mr. Favela: (1) transcript of the change of plea hearing held on February 28, 2020 [Doc. No. 158]; (2) transcript of the sentencing hearing held on August 19, 2020 [Doc. No. 159]; and the Government's Response in Opposition to Defendant's § 2255 Motion [Doc. No. 160].

3. Defendant's Pro Se Motion for an Extension of Time to File a Reply [Doc. No. 162] is **GRANTED**. Defendant's Reply, along with any supporting declarations, affidavits, or exhibits, is due by **March 28, 2022**.

Dated: January 22, 2022

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge